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January 27, 2016

VIA ECF and FAX ((212) 805-7920)

Hon. Shira A. Scheindlin
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 1620
New York, NY 10007

Re: *SEC v. Adondakis, et al.*
12 Civ. 409 (SAS)

Dear Judge Scheindlin:

Our firm represents Jesse Tortora, a defendant in the above-referenced matter. In 2013, when this case was assigned to Judge Harold Baer, a judgment was entered against Mr. Tortora pursuant to a settlement agreement between Mr. Tortora and the Securities and Exchange Commission ("SEC"). The judgment against Mr. Tortora is Document 84 in the ECF docket of this case. I now write pursuant to Federal Rule of Civil Procedure 60(b)(4), (5), and (6), to respectfully request that the Court vacate the judgment entered against Mr. Tortora. It is my understanding that the SEC does not oppose this application.

Federal Rule of Civil Procedure 60(b)(4), (5) and (6), empowers the Court to vacate a judgment where it "is void," "applying it prospectively is no longer equitable" or for "any other reason that justifies relief." Here, the judgment against Mr. Tortora should be vacated because it is inconsistent with the 2014 decision of the Second Circuit in *United States v. Newman, et al.*, 773 F.3d 438 (2d Cir. 2014). Late last year, the Supreme Court denied the government's petition for certiorari. Thereafter, the United States Attorney's Office filed a *nolle prosequi* to dismiss its criminal case against Mr. Tortora, and Judge Pauley dismissed the charges on November 2, 2015.

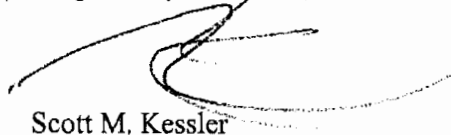
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Accordingly, Mr. Tortora respectfully requests that the Court, by "so ordering" this letter, re-open the matter and vacate the March 8, 2013 judgment.

I appreciate the Court's consideration.

Respectfully submitted,




Scott M. Kessler

cc: Sandeep Satwalekar, Esq. (By ECF and Electronic Mail)

The Defendant, Jesse Tortora, having made an application to vacate the judgment entered against him herein on March 8, 2013 (ECF 84), and the plaintiff, Securities and Exchange Commission, having no opposition to the application, and good cause appearing to grant the application,

IT IS ORDERED, that the judgment entered against Jesse Tortora in this matter as document number 84 on the ECF docket be and hereby is vacated.

IT IS SO ORDERED:



HON. SHIRA A. SCHEINDLIN
U. S. D. J.

1/28/16

The clerk of the court is directed to close this motion (DKT. NO. 142).